

PROPOSED EXECUTIVE ORDER NO. , "SUITABILITY REQUIREMENTS
FOR GOVERNMENT EMPLOYMENT," WITH AMENDMENTS
THERETO PROPOSED BY THE DIRECTOR OF CENTRAL INTELLIGENCE *

WHEREAS the national interests require that all persons privileged to be employed in the Federal Government shall be reliable, of good conduct and character, and of undivided allegiance and unswerving loyalty to the United States; and

WHEREAS the national security and welfare require that only persons who have demonstrated integrity, trustworthiness and discretion of the highest order shall be employed in positions of special trust and that the selection of such employees shall be made on the basis of a comprehensive review of their suitability and qualifications to hold such positions; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the Federal Government be adjudged by standards and procedures that are consistent, uniform and comport with the individual's right of privacy:

Now, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States including section 1753 of the Revised Statutes of the United States (5 U.S.C. 1970 ed. 3301 and 3701); the Civil Service Act of 1883 (5 U.S.C. 1970 ed. 1101 et seq.); section 9A of the Act of August 2, 1939 (5 U.S.C. 1970 ed. 333 and 7311); the Act

1.

~~Section Approved For Release 2002/08/15 : CIA-RDP87B01034R00010003000450~~ of
April 27, 1953, as amended, is hereby revoked.

Section 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

Adjudication: The procedure by which a qualified ^{person} ~~beneficiary~~ weighs the known facts of an individual's conduct, ^{loyalty} and character and considers all relevant circumstances of that conduct, prior experience in similar cases, and the general nature of the position sought or held, in order to evaluate the probability the individual will perform the duties of the position responsibly and in a manner consistent with the national interest.
~~and efficiently and to balance that degree of probability against the acceptability of the~~

Adverse Determination: A decision at any level of the adjudication procedure or in subsequent hearings based upon disqualification factors set forth in Section 8 (b) of this Order which resolves a doubt against the individual with the result that he or she is denied the right to take an examination for employment, is denied appointment, is suspended from employment either with or without pay, is separated from employment, is disqualified for a Position of Special Trust, or is denied access to classified information.

Agency Head: The principal officer or administrator of a department, agency or other major organization or component of the Executive Branch.
~~established by statute or Executive Order.~~

Allegiance: The devotion or emotional commitment of an individual to a political entity, ~~as customarily shown by a citizen or person intending to become a citizen of such entity.~~

Civilian Employee: All appointive positions in the Executive Branch of the Government of the United States, except positions in the uniformed services

(armed forces, commissioned corps of the Public Health Service and

commissioned corps of the Environmental Protection Services Administration).

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

Complaint Investigation: An inquiry initiated as a result of an allegation or ~~other~~/reasonable suspicion that an employee has committed some violation of law or regulation or otherwise by his or her conduct has raised a question as to whether he or she continues to meet the standards of employment for the particular position held. Such an inquiry may be conducted under the authority of any applicable law or regulation or of this Order or both.

~~While a complaint investigation is not a routine inquiry, the investigative procedures prescribed by this Order will be observed to the extent compatible with the integrity of the investigation, wherever its objectives include determining the individual's suitability for continued employment.~~

Emergency Waiver: An emergency waiver is a suspension of the investigative requirements of this Order that allows the head of a department or agency to fill a Position of Special Trust in his department or agency for up to 90 days without completion of the prescribed investigative report.

Federal Service: Federal service means employment by any Executive Branch agency including any Executive department, agency or independent establishment of the United States or any corporation wholly owned by the United States, and including the United States Postal Service and the Postal Rate Commission. ^{Federal service} ~~It~~/includes the terms Federal employment, government employment and any and all other terms used to describe

employment status within the Executive Branch of the Federal government/ but does not include contractors and their employees.

Foreign Affairs: The policies, duties and functions pertaining or giving effect to the relations between the United States and Foreign governments, groups or individuals, and international organizations.

Full Field Investigation: An investigation ^{to establish and verify identify and to deve-} ~~of~~ an individual's background/ ^{lop} information, /conducted in person by qualified investigators, and including interviews

with known persons and checks of appropriate records including

those of appropriate national agencies to cover a sufficient period of 3
the person's life in order to assure ~~acquisition of information necessary~~
~~and release of information~~ the individual's suitability for the
position sought or held.

General Standard Positions: All positions in the Federal Service which
have not been designated Positions of Special Trust.

Investigation: An inquiry conducted by an authorized investigative organiza-
tion for the purpose of determining an individual's suitability for employment
in the Federal service as provided for in this Order.

Investigative File: The official repository of all relevant investigative
material, reports or similar information.

Investigative Record: Any item, collection, or grouping of information
authorized for inclusion in a file, indices, list, register or computer system
which relates to an investigation which contains the name, or the identifying
number, symbol or other identifying particular assigned to the individual
upon whom the investigation was conducted and which describes the nature
of the investigation, the date of the investigation and the investigatory
agency.

Loyalty: An individual's faithful and true allegiance to the U. S. and
its constitutional form of government.

National Agency Check: A record check of the Federal Bureau of Investiga-
tion's fingerprint and investigative files, the CSC security-investigations
index and ~~where~~ ^{other} records of Federal agencies including
~~appropriate~~ Defense Central Investigative, Central
Intelligence and State Department indices ~~and other agencies as appropriate~~.

National Interest: All of the ~~various~~ interests of the Federal government
viewed collectively. The interests of national security and national welfare
are specific categories of the national interest.

Personnel File: The record required to be maintained by law or regulation 4

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7
reflecting all significant information concerning any matter relating to
the employment of an individual in the Executive Branch of the government.

The Official Personnel Folder is the official repository of records and reports
of personnel actions effected during an employee's Federal service and the
documents and papers required in connection with these actions.

Position of Special Trust: ^P~~Certain~~ Positions within the Federal service which
entail duties of such a ~~sensitive~~ nature that the misconduct, malfeasance
or nonfeasance of an incumbent in any such position could reasonably be
expected to result in an unacceptably adverse impact upon the national
interest.

Security Determination: A determination, as required by Executive Order
11652, made by a lawfully designated authority of the Federal government,
on the basis of prescribed investigation and other relevant available
information, as to an individual's trustworthiness for access to classified
information or material.

Sensitive Compartmented Information: All information and materials bearing
special controls of the Intelligence Community (as defined in Executive Order
11905) indicating restricted handling/^{or access}within present and future intelligence
collection programs and their end products for which community systems of
compartmentation have been or will be formally established. The term does
not include Restricted Data as defined in ^{42 U.S.C. 2014(y).} ~~Section 11, Pub. L. 104/1985,~~
~~Atomic Energy Act of 1954, as amended.~~

Significant Adverse Information: Such information, directly relating to the
factors to be considered in making a suitability determination set forth
in subsection 8(b) of this Order, which could reasonably be expected of
itself to adversely influence a determination as to suitability or prompt the
seeking of additional investigation or clarification.

Suitability: As used in this Order, suitability means the individual's fitness, in terms of character and responsibility, as distinguished from professional skills or qualifications, for the position sought or held, taking into consideration all relevant aspects of the position including its level of responsibility and sensitivity from the point of view of the national interests.

Suitability Determination: A determination made by the Civil Service Commission or the head of a department or agency of the Executive Branch or his designee, on the basis of investigation prescribed by this Order and other relevant available information, as to an individual's suitability for employment in the Federal service with respect to the appropriate suitability standard

Suitability Factors: Such factors relevant to a determination as to an individual's suitability for employment in the Federal Service, under the standards required by Section 5(a) and (b), which are detailed in Subsections 8(b)(1) and (2) of this Order.

Suitability Standard: The minimum level of personal fitness and competence, prescribed by this Order, which each civilian officer or employee must meet, according to the nature of the position concerned, to be determined suitable for employment in the Federal service.

Section 3. General.

(a) Purpose of the Order - The purpose of this Order is to establish uniform standards for determining the suitability of individuals for employment in the Federal Service and for determining the eligibility of individuals

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

for access to information classified in accordance with Executive Order 11652, to delineate authority and responsibilities of the departments and agencies in application of the standards, to limit the collection of personal information required in determining suitability for Government employment to that which is relevant and necessary to such determination and which is consistent with the individual's basic right of privacy, and to establish effective oversight to assure that implementation of the policies set forth herein by the departments and agencies is consistent with the interests of the nation and the constitutional and civil rights of the individuals concerned.

(b) Establishment of the Federal Civilian Personnel Suitability Investigation and Adjudication Program - There shall be established a uniform Federal Civilian Personnel Suitability Investigation and Adjudication Program operating under the overall personnel policies and procedures developed by the Civil Service Commission. Any Intelligence Community organization, as defined by Executive Order 11905, with programs based on procedures or requirements established by or pursuant to statute or other Executive Order, shall be excluded from those Civil Service Commission regulations and procedures or other Executive Order, shall be excluded from those Civil Service Commission regulations and procedures and those provisions of this Order which conflict with such statutes or Executive Orders. procedures established pursuant thereto.

Section 4. Applicability.

Pursuant to the authority of the Act of August 26, 1950, the provisions of that Act are hereby extended to all other departments and agencies of the Federal Service to the extent that the heads of such departments and agencies shall designate Positions of Special Trust in accord with the criteria of Section 6(b)(1) of this Order. By virtue of the authority of the Constitution and the other statutes cited in the preamble to this Order, standards and criteria for other Positions of Special Trust and

of this Order shall apply, as appropriate, to all civilian positions in the Executive Branch, whether of the competitive or excepted services. 7

The standards and criteria specified in this Order shall be used in making the determination of trustworthiness required of certain civilian personnel pursuant to Section 6A of Executive Order 11652. A determination that an individual has met the applicable standard of Section 5 of this Order shall be deemed to include a determination of trustworthiness for access to the appropriate level of information classified in accordance with Executive Order 11652, provided, however, the Director of Central Intelligence shall prescribe standards for access to Sensitive Compartmented Information, intelligence sources and methods and intelligence information.

Section 5. Suitability Standards.

The appointment or retention of each civilian officer or employee in any department or agency is contingent upon his meeting one or both of the following suitability standards according to the nature of the position for which he is being considered or in which he is serving:

(a) The overall standard for Government employment is whether an individual's appointment or retention in any position will promote the efficiency of the service and whether, in any position requiring access to classified information, such appointment or retention is clearly consistent with the national interest.

(b) The standard for appointment or retention in Positions of Special Trust is whether the individual's demonstrated integrity, loyalty, trustworthiness and discretion are such that his appointment or retention in such a position would be clearly consistent with the national interest.

Section 6. Positions of Special Trust.

(a) General - Certain positions within the Federal service entail duties of such a sensitive nature that the misconduct, malfeasance or nonfeasance of an incumbent in any such position could result in an unacceptably adverse impact upon the national interest. These positions,

which shall be filled by U.S. citizens only, are designated Positions of

special trust. It is vital to the national interest that great care be exercised in the selection of individuals to fill such positions. There

are two categories of Positions of Special Trust:

(1) National Security: Those activities ^{related to the military security, foreign} ~~involving access to~~ affairs, or foreign intelligence program of the United States, or activities involving ~~classified information or which are directly related to military security,~~ access to classified information related to these activities, and including ~~foreign affairs or intelligence including~~ the protection of the government ^{foreign aggression,} against espionage, sabotage, subversion, assassination and terrorism and any other illegal acts that adversely affect the national defense, ~~such as those activities which are directly concerned with the protection of the Nation from internal subversion or foreign aggression.~~

(2) National Welfare: Those activities which are directly related to domestic order and the economic and productive strength of the Nation, including critical policy making and law enforcement positions, access to sensitive information critical to the Nation's economic or domestic interest, and access to property or installations that affect public health, safety or economic well being.

(b) Criteria For Designating Positions of Special Trust - Only those civilian positions in the Federal service which meet any of the following criteria shall be designated a Position of Special Trust:

(1) National Security Positions which:

- (i) Require access to Top Secret information;
- (ii) Require access to Sensitive Compartmented Information;
- (iii) Require access to classified information revealing intelligence sources, methods and analytical procedures;
- (iv) Require access to any classified information which is controlled by special access procedures established by the head of a department or agency;

- (v) Involve personnel investigative duties;

(vi) Offer the opportunity, through misconduct or

7

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negligence, to interfere with or impair vital

functions of an agency critical to national security interests; or which

(vii) Allow the incumbent to make or influence suitability determinations concerning persons having the access or performing any of the duties listed in (i) through (vi) above.

Positions requiring access to information classified no higher than Secret or Confidential, other than those referred to in subsections (b)(1)(ii) through (vii) above or (2) below, shall not be designated as Positions of Special Trust solely on that basis in that the standard and criteria for employment in such positions are as prescribed in subsections 5(a) and 8(b)(1). ~~however only United States citizens shall be employed in positions requiring access to information classified in accordance with Executive Order 11652.~~

(2) National Welfare Positions which:

- (i) Require access to material or information, the dissemination of which is highly restricted because of its importance to the economic well-being of the Nation;
- (ii) Entail responsibility for formulation or implementation of major plans and policies including enforcement of laws such that malfeasance or nonfeasance whether willful or inadvertant results in significant damage to the national interest that cannot be effectively prevented or corrected;

(iii) Entail final authority for the recommending or approving the collection, grant, exchange, loan, payment or

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aggregate value, such that it impacts on national
economic policy;

- (iv) Entail responsibility for making selections, appointments or adverse determinations concerning persons having the access or performing any of the duties listed in (i) through (iii) above.

(c) Designation of Positions of Special Trust -

(1) Authority to Designate: The designation of Positions of Special Trust shall be made ~~only~~ by the heads of departments, agencies of the Intelligence Community as defined or major organizational components ~~established by statute or Executive Order in Executive Order 11905, or by their delegates.~~
~~Order in accordance with the above criteria.~~

(2) Certification and Redesignation: The heads of organizations referred to in (1) of this subsection ~~or their delegates~~ with respect to Positions of Special Trust:

(i) ~~shall certify in the records of the organization concerned the validity of the position designation at the time of designating each separate position; and~~

~~(ii) shall maintain or cause to be maintained a central report of such positions and annually certify the validity of designation of such positions to the Civil Service Commission and~~

~~(iii) shall approve any change in designation.~~

Section 7. Suitability Investigations.

(a) General - The appointment of each civilian officer or employee in any department or agency shall be made subject to an investigation

whether such appointment is in conformance with the applicable standard specified in section 5 of this Order.

(b) Limits On Investigative Matters - Investigations shall be designed in so far as is possible to collect only as much information as is relevant and necessary for a proper suitability determination, to develop information that is timely and that avoids unnecessary inquiry into sensitive or private areas of personal behavior, and to report for use in final suitability determinations only information that is ~~accurate~~ reasonably feasible or warranted, ~~and~~ as fully corroborated as possible. Inquiries which have no relevance to a suitability determination should not be made. Questions regarding personal and domestic affairs, national origin, financial matters, and the status of physical health, fall in this category unless the question is relevant to the disqualification criteria of section 8 of this Order. The probing of a person's thoughts or beliefs and questions about his conduct, which have no suitability implications, are unwarranted. Further, religious beliefs and affiliations or beliefs and opinions regarding racial matters, political beliefs and affiliations of a nonsubversive nature, opinions regarding the constitutionality of legislative policies, and affiliation with labor unions or fraternal organizations are not proper subjects for such inquiries, except where this information constitutes a bonafide qualification or fitness requirement for a specific relates to employment, unlawful or unconstitutional activities, or relates to the suitability disqualification factors of Section 8.

(c) Investigations Concerning General Standard Positions

- Investigations conducted for the purpose of determining the suitability of an individual for Federal Service in a General Standard Position shall be based exclusively on the suitability standard set

forth in section 5(a) shall be limited to reaching a determination under that standard, and shall ascertain that no adverse information exists which would preclude a favorable determination under that standard; further, such investigation shall consist of a national agency check, including a check of fingerprint files of the Federal Bureau of Investigation and, where appropriate, written inquiries to local law enforcement agencies, former employers and supervisors and references. However, upon the request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security or welfare with respect to per diem, intermittent, temporary or seasonal employees, or aliens employed outside the United States.

(d) Investigations Concerning Positions of Special Trust -

(1) Investigations conducted for the purpose of determining the suitability of an individual for Federal Service in a Position of Special Trust, herein after referred to as a Full Field Investigation, shall be based exclusively on the suitability standards set forth in sections 5(a) and (b) of this Order, shall be limited to matters relevant to reaching a determination under those standards, shall develop information positively affirming that the individual's identity, , loyalty /conduct/ and character are such as meet the standards set forth in sections 5(a) and (b), and shall be completed prior to appointment; provided that when appointment is made prior to completion of the investigation the procedures prescribed in (2) of this subsection are followed.

the Executive Branch shall be personally conducted investigations ~~with~~ .

~~During the five year period~~ These investigations
shall be uniform and shall include, as a minimum, the investigative standards set forth
~~elements listed~~

below, unless special coverage has been requested by the head of the
department or agency, and approved by the Civil Service Commission.

Nothing in this Order shall be taken to limit the investigation if
significant adverse information is developed ~~outside of the most recent~~ .
~~five year period~~

- (i) Verification of date and place of birth and citizenship.
- (ii) Check of the subversive and criminal files of the Federal
Bureau of Investigation, including submission of fingerprint
charts, and such other National agencies as are appropriate
to the individual's background. An additional check of
Immigration and Naturalization Service records shall be
conducted on those members of the individual's immediate
family who are United States citizens other than by birth or who
are resident aliens.
- (iii) A check of appropriate police records covering all areas
where the individual has resided in the US throughout the
most recent fifteen (15) years or since age eighteen,
whichever is the shorter period.
- (iv) Verification of the individual's financial status and
credit habits through checks of appropriate credit
institutions and interviews with knowledgeable sources
covering the most recent five (5) years.

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

- (v) Interviews with neighbors in the vicinity of all the individual's residences in excess of six (6) months throughout the most recent five (5) year period. This coverage shall be expanded where the investigation suggests the existence of some questionable behavioral pattern.
- (vi) Confirmation of all employment during the past fifteen (15) years or since age eighteen, whichever is the shorter period but in any event the most recent two years. Personal interviews with supervisors and co-workers at places of employment covering the past ten (10) years shall be accomplished.
- (vii) Verification of attendance at institutes of higher learning in all instances and at the last secondary school attended within the past fifteen (15) years. Attendance at secondary schools may be verified through qualified collateral sources. If attendance at educational institutions occurred within the most recent five (5) years, personal interviews with faculty members or other persons who were acquainted with the individual during his attendance shall be accomplished.
- (viii) Review of appropriate military records.
- (ix) Interviews with a sufficient number of knowledgeable acquaintances (a minimum of three developed during the course of the investigation) as necessary to provide a continuity to the extent practicable, of the individual's activities and behavioral patterns over the past fifteen years with particular emphasis on the most recent five years.*

*(i) through (ix) above are taken from Director of Central Intelligence Directive No. 1/14 (updated 13 May 1976), paragraph 11, "Minimum standards ... for ... investigation"

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

An investigation, completed with a scope of investigation in conformance with the foregoing scope, shall be accepted as meeting the investigative requirement for any Position of Special Trust, even though a more extensive investigative scope has been authorized for such position by the Civil Service Commission, if the individual concerned subsequent to the completion of the investigation has been continuously employed in any Position of Special Trust for 5 years or more - subject to the provisions of subsection (j) below.

(2) In case of an emergency, a Position of Special Trust may be filled for a limited period by a person with respect to whom the required personal investigation has not been completed if the head of the department or agency ~~personally~~ determines that the waiver of such completion is necessary in the interest of national security or welfare based on the following criteria:

- (i) the position cannot remain unfilled without unacceptably adverse impact upon the mission of the organization.
- (ii) the applicant/nominee has such unique talent that no other person can fill the position.
- (iii) the priority of the program (assigned personally by head of agency or department) is so high that awaiting completion of investigation ^{may} ~~will~~ result in program failure.

Such determination shall be made a part of the records of such department or agency. If such position is filled on this basis, the investigation must be requested not later than 3 days from entrance of the employee concerned on active duty and must be completed within 90 days from the date of waiver.

(3) Notwithstanding the limitations specified in subsection
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

(1) above, investigations of applicants for Positions of Special Trust may also include verification of special qualifications for the position involved as may be determined by the head of the department or agency.

(e) Investigative Expansion or Referral -

(1) Expansion: Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the applicable standard set forth in section 5 the investigation shall be expanded to the extent necessary to enable the Civil Service Commission or head of the department or agency concerned to determine whether the individual is suitable for employment or retention in employment. Further, when significant adverse or questionable information is developed during the course of an investigation, the subject of the investigation, ~~individual~~ except as limited or precluded by national security concerns ~~secretary/permits/~~ shall be afforded an opportunity to affirm, refute or or by statute, otherwise explain such information, prior to closing the investigation.

(2) Referral: There shall be referred promptly to the Federal Bureau of Investigation all investigations which develop information that an individual's conduct or activities are such as may fall within the investigative jurisdiction of the FBI.

(f) Investigative Procedures -

(1) Sources of Investigative Information: Persons conducting investigations authorized under this section shall collect information to the greatest extent practicable directly from the subject individual, but are authorized to seek additional information from any other appropriate source, including but not limited to:

- (i) the parent(s) or guardian(s) of the person being investigated;

(ii) birth and citizenship records;

17

(iii) ~~(A)~~/ school records;
Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

(iv) ~~(A)~~/ federal, state, and local official government

records, including conviction and sentencing information, court proceedings and probation records regarding criminal offenders;

(v) ~~(A)~~/ employment records;

(vi) ~~(A)~~/ medical records relevant to a determination under section 8(b)(2) (iii); and

(vii) ~~(A)~~/ personal acquaintances.

The criminal offender information which the department or agency head concerned or his designee is authorized to obtain under this section includes, but is not limited to, all criminal history relating to arrests, indictments, information, or other formal criminal charges, dispositions, or a reason why no disposition is available, sentencing, and correctional supervision and release.

Where consistent with other Executive Orders and the mission of an agency or department,
(2) Notice to the Individual: Prior to initiation of any investigation, p

investigation, the subject of the investigation shall be given ~~written~~ notice of:

- (i) The authority under which the investigation will be conducted;
- (ii) The scope of the investigation including an enumeration of the types of records and files to be checked and the type of individuals to be contacted;
- (iii) The principal purpose or purposes of the investigation;
- (iv) The individuals or organizations that will have access to the information;

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

adverse information;

(v) The effects on the individual, if any, of not

providing all or any part of the requested information.

(3) Information to be Released by the Individual - The individual

shall furnish a signed personal history statement, fingerprints of a quality

acceptable to the Federal Bureau of Investigation and a signed release, as necessary, authorizing custodians of police, credit, education, employment and medical and similar records, to provide relevant record information to the investigative agency.

(4) Investigative Limitations With Respect to Privacy - In conducting investigations under the provisions of this Order, investigators shall:

(i) Not investigate any case or person except those assigned within their lawful duties;

(ii) Not interview witnesses where the testimony is likely to be overheard by others;

(iii) Inform witnesses of the eligibility of their identity ~~Always present/credentials and inform witnesses of~~ for confidential treatment;

~~the reasons for the investigation; the use that will~~

~~be made of the individual's testimony; the eligibility~~

~~of the testimony for confidential treatment; the~~

~~effects on him, if any; or not to provide him with~~

~~any of the information that he is entitled to~~

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

- (iv) Not ~~surveil~~ ~~investigate~~ ~~identify~~ identity data, or ask questions in such a manner as to indicate that the investigator is in possession of derogatory information concerning the subject of the investigation;
- (v) Refrain from using ~~/ under any circumstances, / covert /~~ ~~of surreptitious investigative methods, devices or~~ ~~except as permitted by law or~~ ~~Executive Order;~~ ~~techniques including mail covers, physical or~~ ~~photographic surveillance, / white analysis, /~~ ~~spectrophotometry, /~~ ~~trash, /~~ ~~data /~~ ~~handwritten notes, /~~ ~~stamps, /~~ ~~leafletting, /~~ ~~devices, /~~
- (vi) Not investigate any case in which the investigator knows of circumstances which might adversely affect his fairness, impartiality or objectivity.
- (vii) Refrain, under any circumstances, from conducting physical searches of the subject or his property or making uninvited visits to the subject's home.
- (viii) Refrain from using a polygraph in any investigation conducted under this Order except in the case of ~~that of~~ ~~organizations in the Intelligence Community as~~ ~~executive agency which has a highly sensitive~~ ~~defined in Executive Order 11905,~~ ~~intelligence or counterintelligence mission directly~~ ~~affecting the national security, or use the polygraph~~ ~~for employment and screening personnel investigations~~ ~~subject to the provisions of Appendix D of Chapter 736~~ ~~of the Federal Personnel Manual, /~~ ~~all other uses of a~~ ~~polygraph for screening applicants for or appointees to~~ ~~confidential positions or for identification regardless of~~ ~~whether the polygraph examination is administered by~~ ~~the agency concerned or is provided by that agency~~

~~from another source as an examination of the~~
~~primary/ by another Federal agency/ or by a non-~~
~~Federal agency/~~

(g) Investigative Responsibility - The investigation of persons entering or employed in the Federal Service, including experts and consultants however employed, shall ~~primary/~~ be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or Executive Order or by agreement with the Civil Service Commission. A full report of investigation or notification of satisfactory completion thereof shall be furnished to the department or agency responsible for making the suitability determination.

(h) Investigative Support to Non-Executive Branch Federal Agencies - Legislative, judicial and quasi-governmental agencies, including the Government of the District of Columbia, that require investigations similar to those prescribed in this order may use the investigative facilities of the Civil Service Commission.

(i) Use of Prior Investigations - In order to avoid unnecessary duplication of effort and expense, an agency making a suitability determination pursuant to this Order shall make the fullest use of reports of prior investigation, to the extent that such prior investigation was based on the standards, suitability factors and investigative coverage requirements of this Order. If the prior investigation did not comply with this Order, such additional investigation as may be necessary shall be conducted.

(j) Reinvestigation.

(1) Incumbents. Once a person's suitability for Federal Service has been determined under the provisions of this order, he shall not be

reinvestigated for the same purpose unless information becomes available

21

which ~~Approved For Release 2002/08/15: CIA-RDP87B01034R000100030014-7~~ whether he continues to meet the

applicable standard prescribed by section 5. However, ~~the head of a~~
~~department or agency authorized to establish~~ Positions of Special Trust
~~may with respect to such positions designate those which~~ shall require

re-investigation of the incumbent 5 years after employment, and once each

Such reinvestigation shall include as a minimum appropriate
succeeding 5 years, ~~provided that such reinvestigation in the absence of~~
national agency checks, local agency checks (including overseas checks where
~~potentially available suitability information, includes as a minimum~~
appropriate), credit checks and a personal discussion with the individual
~~(1) requiring the incumbent to submit an updated statement of personal~~
by trained investigative security or counterintelligence personnel when necessary
~~history to the appropriate office responsible for requesting such investigation~~
to resolve significant adverse information or inconsistencies.

~~gations, and (2) a review of the statement of personal history together~~
~~with the personnel file of the incumbent, locally available previous reports~~
~~of investigation conducted him, and any other locally available report~~
~~relative records. A determination shall then be made as to what further~~
~~action is then appropriate. For example, a check of local police and credit~~
~~records, a national agency check, or an updated full field investigation. / / / /~~

(2) Former Employees. A former employee, who re-applies for employ-
ment, shall be investigated whenever available information raises a
question as to whether the individual continues to meet the standard
provided by section 5 or there has been a break in his employment by the
Federal government greater than 12 months.

Section 8. Adjudication.

(a) Objectives - The objectives of the adjudication procedure shall
be to determine whether, on the basis of available information, the
individual's employment reasonably can be expected to promote the efficiency
of the service and, in the case of a Positions of Special Trust and those
requiring access to information classified in accordance with Executive Order
11652, to be clearly consistent with the national interests. The adjudica-
tion procedure is an effort to assess the probability of future conduct, whether
willing or unwilling, ~~Approved For Release 2002/08/15: CIA-RDP87B01034R000100030014-7~~ which would impair

the efficiency of the service or expose the national interests to hazard or jeopardy. It is an evaluation of risk which seeks to balance the possibility of prejudicial behavior against the consequences of failure in terms of the interests of the agency's mission or of the national welfare or security. Where the nature of the position is such that the consequences of failure are of little national import or are easily reparable, some doubts about an individual's suitability may be resolved in his or her favor. Where the consequences of failure pose a greater hazard to the national interests, however, such as with Positions of Special Trust, a smaller degree of doubt may warrant disqualification.

(b) Reasons for Disqualification -

(1) General: All applicants for or incumbents of positions in the Executive Branch must meet the standard of efficiency cited in Section 5(a). Specifically, an individual shall be disqualified for such employment if his or her conduct may reasonably be expected to interfere with or prevent his or her effective performance in the position sought or held, or if such conduct may reasonably be expected to interfere with or prevent effective performance by the employing agency of its duties and responsibilities. Any of the following factors may be considered a basis for disqualification:

- (i) Delinquency or misconduct in prior employment;
- (ii) Criminal, dishonest, infamous ^{,deviate,} or notoriously disgraceful conduct;
- (iii) Intentional false statement or deception or fraud in examination or appointment;
- (iv) Habitual use of intoxicating beverages to excess;
- (v) Abuse of narcotics, drugs, or other controlled substances;

(vi) Reasonable doubt as to the loyalty of the person
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

involved to the Government of the United States;

- (vii) Any statutory disqualification which makes the individual unfit for the service. These suitability factors have been promulgated by the Civil Service Commission which is authorized to make changes in these factors after consideration of the comments of the public and in coordination with the departments and agencies.

(2) Positions of Special Trust and General Standard Positions

Requiring Access to Classified Information: An individual shall not be appointed to or retained in a Position of Special Trust unless such appointment or retention meets the standard cited in section 5(b). In addition to the factors specified in section 8(b)(1) above, the following factors shall be considered in determining whether the individual's employment meets the stricter standard for a Position of Special Trust and those General Standard Positions requiring access to information classified in accordance with Executive Order 11652.

- (i) Any facts, circumstances, relationships, or conduct which furnish reason to believe that the person concerned may be subjected to coercion, influence, or pressure which or induce could cause/him to act contrary to the national interest;
- (ii) Any facts, circumstances or conduct which indicates poor judgment, unreliability or untrustworthiness suggesting that the person concerned might fail to safeguard sensitive information, deliberately or inadvertently;
- (iii) Any illness, including any mental condition, of a

nature which in the opinion of competent medical
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

with due regard to the transient or continuing
effect of the illness and the medical findings in
such case;

- (iv) Wanton or reckless disregard of public law, statutes, Executive Orders or willful disregard of security regulations;
- (v) Refusal or intentional failure to complete required personal history statements or security forms, or otherwise failing or refusing, in the course of an investigation, interrogation, or hearing, to answer, or to authorize others to answer, any pertinent questions regarding the matters set forth in subsection 8(b)(1) and (2) of this section; or
- (vi) A background which reasonably cannot be verified sufficiently to permit a positive demonstration of trustworthiness.

(c) Considerations in Weighing Evidence -

(1) General Guidelines:

While equity requires a degree of uniformity in the adjudication of individual cases, assuring fair and consistent evaluation of circumstances from one situation to the next, each case must be assessed on its own merits, taking into consideration all relevant facts, prior experience of similar cases, the nature of the position involved, including its level of responsibility and sensitivity, and the acceptability of risk. All information of record, both favorable and unfavorable, must be considered, and assessed in terms of completeness, relevance, seriousness, recency, and overall significance.

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

Although there are certain circumstances which, in themselves, are obviously disqualifying, such as the use of a false identity or the various statutory restrictions on employment, adjudication of most forms of conduct must include consideration of all pertinent mitigating or aggravating factors, including the following:

- (1) Refusal by an applicant for or an incumbent of a Position of Special Trust to furnish or to authorize others to furnish information deemed necessary and

for the particular position may warrant an inference that the individual's employment cannot be found to be clearly consistent with the national interests.

- (ii) An individual employee who recognizes that he or she has become involved in an incident or situation, whether by virtue of some misconduct or indiscretion on his or her part which could adversely affect the national interests, and who promptly reports the matter to appropriate authority, shall receive a sympathetic response. To the extent consistent with applicable law or regulation and other criteria of this order, the individual's voluntariness and candor in providing such information shall be considered if as possible ~~as a mitigating circumstance and, as appropriate, evidence~~ of a willingness to rehabilitate.

(4) Factors not to be Considered:

- (i) Criminal history information which does not show final disposition of a charge must be investigated further to ascertain the disposition and reasons therefor. No adverse determination shall be made except on the basis of information which is as complete as circumstances allow.
- (ii) No adverse determination shall be made on the basis of how an individual has exercised his First Amendment rights, which include but are not limited to, religious and political beliefs, freedom of speech and of the press, and freedom of assembly and petition. Such factors are

deemed irrelevant, in the absence of any indication of
Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

patibility with the standards of this Order, in which
case it is the illegal activity or incompatibility and
not the mere exercise of right which becomes relevant.

(d) Timely Adjudication - Adjudication should be completed in a
timely fashion and in no event more than 90 days after the receipt of the final
investigative report.

Where the national interest and the lawful missions of agencies and departments permit, t

(e) Notice to the Individual - The individual shall be informed of
the completion of any investigation conducted pursuant to this
Order and shall be informed of the final suitability determination.

Section 9. Due Process and Adverse Determination Procedures.

(a) Due Process Policy - No person may be denied eligibility for
appointment or appointment in the Federal service or finally removed
from a position in the Federal service by the Civil Service Commission
or a department or agency for failure to meet the standards prescribed
by Section 5 of this Order unless he has been afforded such due process

as is provided for in this section, or as provided in Section 10 of this Order, or
unless his employment is terminated under provision of Section 102(c) of the National Security

(b) Applicants Act of 1947, as amended (50 U.S.C.A. 403).

Any

(1) No person ~~may be~~ denied eligibility for appointment or
appointment in the Federal service, competitive or excepted service, by
the Civil Service Commission or by ~~the head of~~ a department or agency
to the extent permitted by national security interests,
for failure to meet the standards prescribed by section 5, ~~unless the~~
will be

~~person has been~~ given:

notification

(i) ~~a written statement~~ of the reasons upon which such

denial is to be based in sufficient detail to afford

an opportunity to respond and offer comments or

(ii) a reasonable opportunity to make such response;
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

(iii) ~~to be~~ notification of the determination

which, if adverse, shall cite the specific reasons
 upon which the determination is based; and

(iv) ~~to be~~ notification of the right to appeal the
in competitive service cases
 adverse determination to the Federal Employee Appeal

Authority, and in excepted service cases to the head of the
agency or department involved.

(c) Incumbents

involuntarily

No person may be ~~fully~~ removed from employment, competitive
 or excepted service, by the Civil Service Commission or by the head of a
 department or agency for failure to meet the standards prescribed by
 section 5 unless appropriate Civil Service removal procedures have been
 followed for those persons in the competitive service or the established
 agency ~~and appropriate Civil Service Commission~~ removal procedures have
 been followed for those persons in the excepted service, except that when
 the head of the agency determines that the protection of national security
 interests so require the provision of section 10 shall be applied.

Section 10. Procedures Concerning Positions Which Involve National Security

Interests. In furtherance of the objectives of the Act of August 26, 1950
 (5 U.S.C. 7531, et seq.), whenever the continued employment of an individual
 in the Federal service, or his access to classified information, is found to be
 not consistent with national security interests, the head of the agency
 shall take appropriate action in accordance with the following procedures.

(a) Suspension from employment or access to classified information.

The head of a department or agency shall, when deemed necessary to the national
 security, suspend from employment any civilian officer or employee,
 competitive or excepted service, or shall suspend the individual's access to
 classified information, provided that, to the extent that such agency head

~~determine~~ ~~Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7~~
 of the reasons for the suspension and within 30 days after such notification
 any such person shall have an opportunity to submit any comments or
 other evidence relative to the issues. However, within 120 days, if the
 determination is adverse, the head of the agency shall take further action
 under one of the following procedures.

(b) Removal from employment or revocation of security clearance.

If ~~the head of~~ a department or agency, based on the circumstances of the involuntarily
 case, determines action should be initiated to ~~finally~~ remove/an individual
 from employment or to revoke the individual's clearance for access to
the agency or department
 classified information, ~~he~~ shall afford the individual the following:
notification

(i) ~~A written statement~~ of the reasons upon which such
 removal or revocation of clearance for access to classified information
 is to be based in such detail as national security permits and as would
 afford him an opportunity to respond and offer comments or other evidence
 relative to the issues;

(ii) a reasonable opportunity to make such response;

(iii) after he has made a response, the form or sufficiency
in the case of the competitive service
 of which may be prescribed/by regulations issued by the Civil Service
in the case of the excepted service by regulations issued by
 Commission or/the head of the department or agency concerned, an oppor-
in the case of the competitive service in the case of the excepted service
 tunity to appear personally/before the Commission or/the head of the before
 department or agency concerned or appropriate designee for the purpose
 of supporting his suitability for retention in the position concerned,
 or eligibility for clearance for access to classified information and to
 present evidence in his behalf;

(iv) a reasonable time to prepare for that appearance;

(v) an opportunity to be represented by counsel;

(vii) // an opportunity to cross-examine persons who
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7
 orally or in writing, and to present evidence in his defense; to be heard
 in person or by telephone; to be represented by counsel; to be informed of the
 charges against him; to be informed of the consequences of a finding of guilt;
 and to be informed of his right to remain silent.

(vi) (vii) a review of his case by the agency head or his
 designee, before a determination adverse to the employee is made final;
 and

(vii) (viii) a written notice of the final decision in his case
 which, if adverse, shall specify whether the Commission or the head of
 the department or agency found for or against him with respect to each
 allegation in the statement of reasons.

The following are the grounds for the finding of guilt in the case of
 the employee who was found guilty of the crime of espionage. The employee
 was found guilty of espionage because he was found to have been in contact
 with the enemy and to have provided information to the enemy. The employee
 was found guilty of espionage because he was found to have been in contact
 with the enemy and to have provided information to the enemy. The employee
 was found guilty of espionage because he was found to have been in contact
 with the enemy and to have provided information to the enemy.

(ix) // The following are the grounds for the finding of guilt in the case of
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 with the enemy and to have provided information to the enemy. The employee
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(x) // The following are the grounds for the finding of guilt in the case of
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 with the enemy and to have provided information to the enemy. The employee
 was found guilty of espionage because he was found to have been in contact
 with the enemy and to have provided information to the enemy.

view of the nature of the position involved in the assignment of the person to the position of Special Trust (National Security) provided that the reassignment is (1) to a position of the same grade, (2) comparable duties and (3) within the commuting area of the position from which the person is reassigned or, as appropriate, within the area of the agency headquarters. In all such reassignment cases the reassignee shall be given:

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

the nature of the security and that the person who is assigned to the position of Special Trust (National Security) provided that the reassignment is (1) to a position of the same grade, (2) comparable duties and (3) within the commuting area of the position from which the person is reassigned or, as appropriate, within the area of the agency headquarters. In all such reassignment cases the reassignee shall be given:

Whenever a person is assigned to a position of Special Trust (National Security) provided that the reassignment is (1) to a position of the same grade, (2) comparable duties and (3) within the commuting area of the position from which the person is reassigned or, as appropriate, within the area of the agency headquarters. In all such reassignment cases the reassignee shall be given:

(c) Reassignment to a position which does not involve national security interests. Nothing in this order shall be deemed to limit or affect the responsibility and authority of any head of a department or agency when, in his absolute discretion, he deems it necessary in the interest of national security to reassign a person to a General Standard Position from a Position of Special Trust (National Security) provided that the reassignment is (1) to a position of the same grade, (2) comparable duties and (3) within the commuting area of the position from which the person is reassigned or, as appropriate, within the area of the agency headquarters. In all such reassignment cases the reassignee shall be given:

notification

(1) a written statement of the adverse information upon which the reassignment is to be based in such detail as national security permits and

in sufficient detail to a 5602/08/15 : CIA-RDP87B01034R000100030014-7 comments
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7
 or other evidence relative to the issues;

(2) a reasonable opportunity to make such a response;

(3) a letter of notification of the decision, if reassignment is decided, which shall cite the specific reasons, to the extent national security permits, upon which the decision is based.

(d) Reserved Authority Nothing in this order shall be deemed to limit or affect the responsibility and powers of the head of a department or agency to deny or revoke access to a specific category of information or otherwise identified for compartmented access purposes classified in accordance with Executive Order 11652/if the security of the nation so requires. Such authority may not be delegated and may be exercised only when the head of a department or agency determines that the procedures prescribed in section 9 or subsections (a)(b) or (c) of this section cannot be invoked consistently with the national security and such determination shall be conclusive.

Section 11. Reinstatement, Restoration to Duty and Re-employment.

Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies in accordance with section 10 of this order shall not be reinstated or restored to duty or re-employed in the same department or agency and shall not be re-employed in any other agency or department, unless the head of the department or agency concerned finds that such reinstatement, restoration or re-employment is consistent with the standards of section 5a and b; such findings shall be made a part of the records of such department or agency. However, no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Commission that such person is eligible for such employment.

Section 12. Review of Adverse or Questionable Information Arising
Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7
Subsequent to Favorable Suitability Determination.

Whenever there is developed or received by any department or agency information indicating that the retention of any civilian officer or employee in the Federal Service may not be consistent with the standards set forth in sections 5(a) and (b), such information shall be forwarded to the head of the department or agency concerned or his designee who, after such investigation as may be appropriate, shall review or cause to be reviewed the adverse or questionable information. If after such review, it is the determination of the head of the department or agency that the retention of the person concerned may not be consistent with the appropriate standard(s) set forth in section 5(a) or (b), he shall initiate action under the provisions of section 9 or 10, as appropriate.

Section 13. Program Management.

a. General Policy Oversight - Within the Executive Office of the President, the National Security Council and the Office of Management and Budget shall exercise oversight of the Civil Service Commission operation of the Federal Personnel Suitability Investigation and Adjudication Program and shall be responsible for providing policy guidance concerning that program and shall effect the necessary oversight needed to assure that implementation of the policies set forth herein by the departments and agencies is consistent with the interests of the nation and the constitutional and civil rights of the individuals concerned. A program directive shall be issued by the Civil Service Commission within 90 days of the effective date of this order.

(1) Department and Agency Systems In furtherance of the Federal Civilian Personnel Suitability Investigation and Adjudication Program the head of each department and agency established by statute or Executive Order shall be responsible for maintaining a centrally managed personnel suitability, adjudication and review system to insure that the employment and retention of each civilian officer or employee, in the competitive or excepted service, is consistent with the suitability standards of this order.

(2) Implementing Regulations: The heads of the departments and agencies shall, within 90 days of the effective date of the directive cited in subsection (a) of this section, issue appropriate regulations implementing the policies and procedures of this Order.

(c) Standardized Qualifications and Training of Program Personnel: The Civil Service Commission, in coordination with other appropriate agencies, shall prescribe minimum standards for the selection and training of Federal personnel investigators, adjudicators and supervisory personnel in these activities.

(d) Index of Investigations:

- (i) In order to avoid unnecessary and duplicative investigation, ^{and} to the extent permitted by national security interests or statute, there shall be established and maintained in the Civil Service Commission an index covering all persons as to whom personnel suitability investigations have been conducted under this order by the Commission or any department or agency of the Executive Branch. The index shall contain the name of each person investigated,

identification of the department or agency which has conducted an investigation concerning the person considered, or has suspended or terminated the employment of such person under the authority granted to the heads of departments and agencies by or in accordance with this order or said Act of August 26, 1950.

- (ii) The heads of all departments and agencies shall furnish to the Civil Service Commission information as prescribed by the Commission appropriate for the maintenance of this index.
- (iii) Each department or agency shall maintain a record of the action taken as a result of any investigation conducted by or at the request of such department or agency in accordance with this Order.

(e) Control, Release and Use of Investigative Reports:

- (i) Control of Reports - Reports of investigation developed for the purpose of this order shall, upon rendering of the final determination, be filed at a place designated by the Commission or the head of the department or agency which conducted the investigation, as the case may be, under conditions which will protect the privacy of the persons concerned and the interests of the nation. The reports and other investigative material and information developed by investigation conducted under this order shall remain the property of the agency which conducted the investigation.

(11) Release of Reports: Access to and Release of such
 Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

reports will be afforded under procedures prescribed by the investigative agency concerned in accordance with Executive Order 11652, the Freedom of Information Act, the Privacy Act of 1974² and other applicable laws, rules and regulations/, and national security interests.

(iii) // Use of Reports // Except as otherwise authorized by

Law or Executive Order such reports shall be used only
to (1) determine an individual's suitability for Federal
service as provided for in this Order or (2) eligibility
for access to classified information; except that such
reports may be used to compile management and statistical
information necessary for the effective management of the
Federal Civilian Personnel Suitability Investigation and
Adjudication Program. // Such reports or information from
them shall not be used for the purpose of determining an
individual's eligibility for promotion, selection for
training or qualification for assignments nor involving
positions of Special Trust.

(iv) // Disposal of Investigative Reports // Investigation reports
prepared as provided by this Order shall be destroyed
fifteen years after the last investigative activity unless
they contain significant adverse information in which case
they shall be retained twenty five years after the last
investigative activity.

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7

timely to accomplish the objectives of this order and sufficiently coordinated to assure accuracy of reports concerning incidents will be submitted each time they are used, to insure that the material contained in the reports is necessarily accurate, relevant, timely and complete. In conformity with the Federal Records Act and other statutes and orders governing record retention, agencies will adopt and publish appropriate schedules for all reports compiled under this order to promote the retention of necessary relevant and timely information.

(f) Standard Forms: In order to avoid unnecessary proliferation of forms, the Civil Service Commission, in coordination with other appropriate agencies, shall develop and prescribe standard forms which shall be used uniformly by all departments and agencies in implementing the Federal Civilian Personnel Suitability Investigation and Adjudication Program to include personal history statements, privacy statements, release authorizations, investigative requests, investigative reports, testimony vouchers, adjudicative work sheets, suitability determination memoranda, suitability determination records, and notification statements to the subjects of investigations. However, supplemental forms required by the needs and missions of any agency or department may be used.

(g) Clearing House for Program Management Information:

The Civil Service Commission, operating under the guidance of the Executive Office of the President shall, establish a clearing house for information vital to effective program management such as legislative initiatives

Approved For Release 2002/08/15 : CIA-RDP87B01034R000100030014-7
and heard by the Civil Service Commission in all such matters.

(h) Program Review: In order to assure full and continuing compliance with the provisions of this order, the Civil Service Commission, with the cooperation of the agencies and departments, shall effect continuing review of the manner in which the order is being implemented throughout the Federal Government and shall submit to the Executive Office of the President for review by the National Security Council and the Office of Management and Budget an annual report with recommendations to correct any deficiencies in the program which are inconsistent with the national interests or rights of the individual under the Constitution, the laws of the United States, or this Order. In addition, the Civil Service Commission shall develop and prescribe statistical reporting procedures designed to facilitate analysis of the effectiveness of the investigative and adjudicative processes of this Order.

(i) Annual Certification: In addition to the annual certification required by section 6(c)(2)(ii) of this Order, each department and agency shall make an annual report to the Civil Service Commission of the waivers granted under section 7(d)(2) of this Order and such information shall be included in the report cited in (h) above.